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9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE DISTRICT OF NEVADA

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.
14

15 JO PATRICIA RABCHEV,

16 Defendant.
17
18

Case No. 2:21-cv-197-GMN-VCF

**MOTION (SECOND) TO EXTEND
TIME FOR SERVICE**

19 The United States moves to extend the deadline the Court set for serving the summons
20 and complaint on Defendant Jo Patricia Rabchev. As explained more below, Ms. Rabchev
21 resides in Bulgaria. She has refused to waive service. The United States, therefore, must serve
22 Ms. Rabchev through an internationally agreed means, pursuant to Fed. R. Civ. P. 4(f). The
23 United States thus requests an additional nine months to effect service.

24 In further support of this motion, the United States avers as follows:

25 1. On February 4, 2021, the United States brought this action to reduce to judgment
26 civil penalty assessments against Jo Patricia Rabchev, pursuant to 31 U.S.C. § 5321(a)(5). These
27 penalties, commonly known as “FBAR” penalties, arise from Ms. Rabchev’s failure to timely
28

1 report her financial interest in, or signatory authority over, foreign bank accounts for the 2007
2 and 2008 calendar years, as required under 31 U.S.C. § 5314 and related regulations.

3 2. Ms. Rabchev is a United States citizen. She currently resides with her husband in
4 Bulgaria, although they maintain a residence in Henderson, Nevada.

5 3. On March 11, 2021, Boris Bourget, original counsel for the United States, served
6 Ms. Rabchev's U.S.-based attorney, Paul Predmore, with a request to waive service of process
7 under Fed. R. Civ. P. 4(d). The May 10, 2021 deadline for executing the waiver passed without
8 word from Ms. Rabchev.

9 4. Mr. Bourget continued communicating with Predmore about the waiver. Mr.
10 Predmore would not provide a definitive response to the waiver request.

11 5. On June 22, 2021, the United States moved for an extension of time under Rule
12 4(m) to serve Ms. Rabchev. (Dkt. 4.) The Court granted that motion, setting August 23, 2021,
13 as the deadline for filing proof of service. (Dkt. 5.) The Court's Order also permitted the United
14 States to seek other relief, if necessary.

15 6. Mr. Bourget continued communicating with Mr. Predmore about the waiver. Mr.
16 Predmore stated that Ms. Rabchev might "cooperate" if the United States would agree to certain
17 conditions. Mr. Bourget informed Mr. Predmore that the United States would not do so. Mr.
18 Predmore stated that he would consult further with Ms. Rabchev.

19 7. On August 4, 2021, undersigned counsel took over for Mr. Bourget as counsel for
20 the United States in this action. (See Dkts. 6, 8.) Undersigned counsel contacted Mr. Predmore
21 to seek a definitive response on whether Ms. Rabchev would waive service. Mr. Predmore
22 continued pressing for conditions to secure Ms. Rabchev's "cooperation." The United States
23 finds the proposed conditions unacceptable.

24 8. After more communications with Mr. Predmore, it became clear that pursuing the
25 waiver of service any further would be fruitless.

26 9. Counsel for the United States thus began the process for serving Ms. Rabchev
27 personally, via internationally agreed means, pursuant to Rule 4(f). The Department of Justice
28 Office of Foreign Litigation has contacted local counsel in Bulgaria to determine whether it

would be possible to serve Ms. Rabchev through the process established under the Hague Service Convention or if the United States must request from the Court a letter rogatory to a Bulgarian court.

10. The United States anticipates determining the appropriate means of international service by September 3, 2021. At that point, if necessary, the United States will request the Court's assistance.

11. The time limit for service under Rule 4(m) does not apply to serving Ms. Rabchev because she must be served in a foreign country pursuant to Rule 4(f). *See* Fed. R. Civ. P. 4(m). Service under Rule 4(f) through either the Hague Service Convention or a letter rogatory will take six months to a year. The United States thus requests a further nine-month extension, until May 23, 2022, to provide proof of service on Ms. Rabchev.

12. The United States also proposes to file status reports every 90 days on the progress toward serving Ms. Rabchev until the United States completes service or the Court directs otherwise. The United States will file the first status report on October 29, 2021.

WHEREFORE, the United States requests that the Court extend the time to file proof of service on Ms. Rabchev by nine months, to May 23, 2022, and direct the United States to file status reports every 90 days. A proposed order is attached.

Respectfully submitted Aug. 19, 2021.

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UNITED STATES OF AMERICA,

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JO PATRICIA RABCHEV

Defendant.

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ORDER

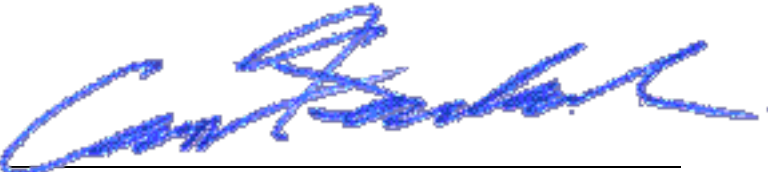
Before the Court is the United States' Motion (Second) to Extend Time for Service. For good cause shown, it is hereby ORDERED that:

(1) The United States' motion is GRANTED.

(2) The time limit for service under Fed. R. Civ. P. 4(m) does not apply to serving Defendant Jo Patricia Rabchev because she must be served in a foreign country pursuant to Fed. R. Civ. P. 4(f).

(3) The time by which the United States must file proof of service on Defendant Jo Patricia Rabchev is extended by nine months, to May 23, 2022.

(4) The United States shall file status reports on the progress toward serving Ms. Rabchev every 90 days, with the first due on October 29, 2021. The United States shall continue doing so until it completes service on Ms. Rabchev or the Court directs otherwise.



UNITED STATES MAGISTRATE JUDGE

DATED: 8-25-2021